

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

vs.

§

Case No. 4:07cr58

(Judge Schell)

ZACHARY ALLEN BROWN (11)

§

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 29, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Randall Blake.

On October 9, 2008, Defendant was sentenced by the Honorable Richard A. Schell to eighteen months' custody followed by three years of supervised release for the offense of Felon in Possession of a Firearm. On September 25, 2009, Defendant completed his period of imprisonment and began service of his supervised term. On March 19, 2010, Defendant's supervised release was revoked and Defendant was sentenced to imprisonment for six (6) months followed by twenty-four (24) months of supervised release. On September 8, 2010, Defendant completed his period of imprisonment and began service of his second term of supervised term.

On February 22, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: defendant shall refrain from any unlawful use of a controlled substance. The petition also alleged additional violations which were dismissed by the Government.

The petition alleges that Defendant committed the following acts with regard to allegation

one of the Petition: (1) On October 26, 2010, and November 23, 2010, Defendant submitted urine specimens that tested positive for marijuana; and (2) On December 6, 2010, and January 10, 2011, Defendant submitted urine specimens that tested positive for marijuana and cocaine.

Prior to the Government putting on its case, Defendant entered a plea of true to the violation. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fifteen (15) months with no supervised release to follow.

It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit, and if Seagoville is not available, then in the Bureau of Prisons, Texarkana Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 29th day of March, 2011.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE